

A. 28

HIGHLY CONFIDENTIAL - J. VARLEY
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

Chapter 11

LEHMAN BROTHERS Case No. 08-13555(JMP)
HOLDINGS, INC., et al., (Jointly Administered)

Debtors.

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* * *HIGHLY CONFIDENTIAL* * *

CONTINUED DEPOSITION OF JOHN VARLEY (TELEPHONIC)
New York, New York
September 11, 2009

Reported by:

KATHY S. KLEPFER, RMR, RPR, CRR, CLR

JOB NO. 24300

<p style="text-align: right;">Page 124</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY 2 September 11, 2009 3 9:05 a.m. 4 5 CONTINUED HIGHLY CONFIDENTIAL 6 deposition of JOHN VARLEY, held at 7 Jones Day, LLP, 222 East 41st Street, 8 New York, New York, before Kathy S. 9 Klepfer, a Registered Professional 10 Reporter, Registered Merit Reporter, 11 Certified Realtime Reporter, Certified 12 Livenote Reporter, and Notary Public 13 of the State of New York. 14 15 16 17 18 19 20 21 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 125</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY 2 3 A P P E A R A N C E S 4 JONES DAY, LLP 5 Attorneys for Lehman Brothers, Inc. 6 222 East 41st Street 7 New York, New York 10017-6702 8 BY: JAYANT W. TAMBE, ESQ. 9 BART GREEN, ESQ. 10 11 BOIES, SCHILLER & FLEXNER, LLP 12 Attorneys for Barclays and the Witness 13 575 Lexington Avenue - 7th Floor 14 New York, New York 10022 15 BY: JACK G. STERN, ESQ. 16 17 QUINN, EMANUEL, URQUHART, OLIVER & HEDGES, LLP 18 Attorneys for the Creditors Committee 19 16 Old Bailey 20 London, United Kingdom EC4M 7EG 21 BY: MATTHEW BUNTING, ESQ. (Via telephone) 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 126</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY 2 A P P E A R A N C E S: (Cont'd.) 3 HUGHES, HUBBARD & REED, LLP 4 Attorneys for the SIPA Trustee 5 1775 I Street, N.W. 6 Washington, D.C. 20006-2401 7 BY: JOHN WOOD, ESQ. 8 9 10 Also Present: 11 PHILIP E. KRUSE, Alvarez & Marsal 12 DEBORAH COOPER, Barclays (Via Telephone) 13 PAUL LOFTUS, Barclays (Via telephone) 14 15 16 17 18 19 20 21 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 127</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY 2 3 4 5 6 7 8 9 10 11 12 REDACTED 13 14 15 16 17 18 19 20 21 22 23 24 25 TSG Reporting - Worldwide (877) 702-9580</p>

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<p>Page 152</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>Page 153</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p>Page 154</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>REDACTED</p> <p>Q. Looking at this page, page 340, it has</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>Page 155</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY 2 the date of 16th of September. The value of the 3 long assets is, if you see the first straight 4 line, 72.4, do you see that? 5 A. I do. 6 Q. Is it your understanding that this is 7 a document that relates to the Lehman 2 8 transaction? 9 A. I would speculate that it does because 10 it's got the broadly 70-billion type number in 11 the middle of the range, the 70-billion type 12 number that was true of Lehman 2, yes. 13 Q. Right below the 72.4 number, there's a 14 notation that reads, "Less: Negotiated 15 discount, minus 5." Do you see that? 16 A. I do. 17 Q. What is that? 18 A. I don't know the precise answer to 19 that question, but if I go back to my earlier 20 answer in relation, actually, to Lehman's 3, but 21 relevant to Lehman's 2, I was preoccupied -- we 22 were as a team preoccupied to ensure that we 23 accommodated the unprecedented volatility in the 24 market at that time by ensuring that there was a 25 discount, which I referred to earlier as either</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 156</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY</p> <p>2 haircut or buffer or delta, a discount to the</p> <p>3 asset price paid by us for the Lehman's</p> <p>4 transaction, and that number in other documents</p> <p>5 that we have looked at together during these</p> <p>6 depositions has looked at -- it's sometimes been</p> <p>7 3, it's sometimes been 4.</p> <p>8 Here I speculate it's 5, but I think</p> <p>9 that's what it is that we're referring to. And</p> <p>10 I surmise that, but I would say that the reason</p> <p>11 why it's there is because the balance sheet that</p> <p>12 we were looking at was a balance sheet that had</p> <p>13 been valued on Friday before the Lehman weekend,</p> <p>14 and by the time that the markets opened on</p> <p>15 Monday in the United States, the markets in the</p> <p>16 rest of the world to the east of the United</p> <p>17 States were falling, and it was for that reason</p> <p>18 that we had sought to ensure that there was that</p> <p>19 delta that I referred to. And I think that's</p> <p>20 probably what the "negotiated discount 5" refers</p> <p>21 to.</p> <p>22 Q. And the reference negotiated is a</p> <p>23 reference to negotiated between Lehman and</p> <p>24 Barclays; is that right?</p> <p>25 A. Well, I have to say I don't know, but</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 157</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY</p> <p>2 if you ask me to guess, I would guess the answer</p> <p>3 to that is yes.</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 REDACTED</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 158</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 REDACTED</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 159</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 REDACTED</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p style="text-align: right;">Page 164</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 165</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 166</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">REDACTED</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 167</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">REDACTED</p> <p>(Time Noted: 10:01 A.M.)</p> <p style="text-align: center;">_____ JOHN VARLEY</p> <p>Subscribed and sworn to before me this day of 2009.</p> <p style="text-align: center;">_____</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 HIGHLY CONFIDENTIAL - J. VARLEY</p> <p>2 CERTIFICATE</p> <p>3 STATE OF NEW YORK)</p> <p>4 : ss</p> <p>5 COUNTY OF NEW YORK)</p> <p>6 I, Kathy S. Klepfer, a Registered</p> <p>7 Merit Reporter and Notary Public within and</p> <p>8 for the State of New York, do hereby</p> <p>9 certify:</p> <p>10 That JOHN VARLEY, the witness whose</p> <p>11 deposition is herein before set forth, was</p> <p>12 duly sworn by me and that such deposition is</p> <p>13 a true record of the testimony given by such</p> <p>14 witness.</p> <p>15 I further certify that I am not</p> <p>16 related to any of the parties to this action</p> <p>17 by blood or marriage and that I am in no way</p> <p>18 interested in the outcome of this matter.</p> <p>19 I further certify that neither the</p> <p>20 deponent nor a party requested a review of</p> <p>21 the transcript pursuant to Federal Rule of</p> <p>22 Civil Procedure 30(e) before the deposition</p> <p>23 was completed.</p> <p>24 In witness whereof, I have hereunto</p> <p>25 set my hand this 11th day of September,</p> <p>2009.</p> <p>-----</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - J. VARLEY</p> <p>2 INDEX</p> <p>3 TESTIMONY OF J. VARLEY: PAGE</p> <p>4 Examination by Mr. Tambe 127</p> <p>5</p> <p>6 EXHIBITS: PAGE</p> <p>7 Exhibit 412B, a cover letter from Boies 128</p> <p>8 Schiller with attached document bearing</p> <p>9 Bates Nos. BCI-EX-166277 through 166348</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p>Page 170</p> <p>1 HIGHLY CONFIDENTIAL - J. VARLEY</p> <p>2 NAME OF CASE. In re Lehman Brothers Holdings, Inc.</p> <p>3 DATE OF DEPOSITION. September 11, 2009</p> <p>4 NAME OF WITNESS. John Varley</p> <p>5 Reason Codes:</p> <p>6 1 To clarify the record.</p> <p>7 2 To conform to the facts</p> <p>8 3 To correct transcription errors.</p> <p>9 Page _____ Line _____ Reason _____</p> <p>10 From _____ to _____</p> <p>11 Page _____ Line _____ Reason _____</p> <p>12 From _____ to _____</p> <p>13 Page _____ Line _____ Reason _____</p> <p>14 From _____ to _____</p> <p>15 Page _____ Line _____ Reason _____</p> <p>16 From _____ to _____</p> <p>17 Page _____ Line _____ Reason _____</p> <p>18 From _____ to _____</p> <p>19 Page _____ Line _____ Reason _____</p> <p>20 From _____ to _____</p> <p>21 Page _____ Line _____ Reason _____</p> <p>22 From _____ to _____</p> <p>23 Page _____ Line _____ Reason _____</p> <p>24 From _____ to _____</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	